1. An innovative experiment

The Judicial Group on Strengthening Judicial Integrity, or Judicial Integrity Group as this body has come to be known, is an independent, autonomous, not-for-profit and voluntary entity, owned and driven by its members, all of whom are (or have been) heads of the judiciary or senior judges in their respective countries or at the regional or international level, enjoying independence from the executive, and who share common values and beliefs on the integrity of the judiciary and a determination to deepen and broaden the quality of the administration of justice in appropriate ways.

2. Background to its formation

The Judicial Integrity Group (the Group) was formed in early 2000 following discussions, initiated by Nihal Jayawickrama and Jeremy Pope in the context of their then-involvement with the Centre for Research and Innovation of Transparency International\(^1\), with eight Chief Justices from four African and four Asian countries. The Chief Justices\(^2\) met in Vienna under the auspices of the UN Global Programme

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\(^1\) The decision to take this initiative followed a pilot workshop on *Strengthening Judicial Integrity* held in October 1999 during the 9th International Anti-Corruption Conference in Durban. It was attended by over 160 participants, including judges, lawyers, legal academics, justice ministry officials, Members of Parliament, human rights activists, and civil society representatives. One message that came through clearly from that workshop was the need to formulate and implement a concept of judicial accountability without eroding judicial independence. In the same month, at their meeting also held in Durban, the Commonwealth Heads of Government approved a *Framework for Commonwealth Principles on Promoting Good Governance and Combating Corruption*, based on the report of an expert group appointed by the Commonwealth Secretary-General which, in respect of the judiciary, had recognized the need for principles of accountability and had recommended the formulation of a national strategy to restore its integrity and efficiency. In February 2000, the Centre for the Independence of Judges and Lawyers (CIJL) convened a 16-member expert group drawn from 14 countries to address the issue of judicial corruption. At the conclusion of a two-day meeting held in Geneva, the expert group agreed on *The Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System* and urged governments, international financial institutions, members of the judiciary, lawyers and other policy-makers to take active steps to prevent and eliminate corruption in the judiciary. One of the principal elements of this policy framework was to endeavour to achieve an enforceable statement of judicial ethics.

\(^2\) The Chief Justices of Nigeria, Uganda, Tanzania, South Africa, Sri Lanka, Bangladesh, Nepal and Karnataka State in India. Judge Christopher Weeramantry, Vice-President of the International Court of Justice, agreed to chair the Group, while Justice Michael Kirby of the High Court of Australia agreed to serve as its rapporteur. Dato Param Cumaraswamy, UN Special Rapporteur on the Independence of Judges and Lawyers, and former Chief Justice Bhagwati of India, Chairman of the UN Human Rights Committee, agreed to participate as observers.
Against Corruption. They agreed to respond to a growing body of evidence that, in many countries in Africa, Asia, Eastern and Central Europe and Latin America, the public were losing confidence in their judicial systems, mainly due to their perception that the judiciary was a corrupt institution.

The Chief Justices agreed that, consistent with the principle of judicial independence, the judiciary had the primary duty to assert and protect its integrity and the integrity of the processes over which the judiciary presided; and that in doing so, it was advantageous to draw on the support and experience both of local court-users and stakeholders as well as like-minded colleagues in other jurisdictions. Accordingly, they agreed:

(a) To formulate a concept of judicial accountability which will be of practical effect and have the potential to impact positively on the standard of judicial conduct and raise the level of public confidence in the Rule of Law;

(b) To design mechanisms which are capable of being utilized by the judiciary to strengthen the integrity of the judicial system;

(c) To formulate and promote standards, guidelines and instruments relating to vital aspects of the judicial system based on their own experience;

(d) To identify, and assist in the implementation of, measures of judicial reform which the judiciary is competent to undertake on its own through the exercise of its own powers (such as oversight and/or disciplining of judges, leadership, re-organization of the registry, reform of trial and appellate procedures, and the training of judicial officers) and which are demonstrably effective in eliminating corruption within judicial systems and providing greater, more expeditious, and less expensive access to justice;

and to do so within the constitutional guarantees of judicial independence.

3. The Bangalore Principles of Judicial Conduct

The Group recognized at the outset the need for a universally acceptable statement of principles of judicial conduct. Such a statement would explain the ethical aspects of appropriate conduct to judges, encourage informed public understanding of the judicial system, and inspire public confidence in the integrity of the judiciary. An initial draft based on a survey of existing national codes in common law countries was prepared by the Coordinator. At its second meeting held in Bangalore, the Group agreed upon the text of the document that came to be known as the Draft Bangalore Code of Judicial Conduct. Over the next twenty months, the Bangalore Draft was widely disseminated among senior judges of both common law and civil law systems,

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3 Transparency International’s Berlin office was unable to finance the meeting. However, through the good offices of Petter Langseth, arrangements were made for it to be funded by the United Nations Centre for International Crime Prevention under its Global Programme Against Corruption. Thus began a fruitful collaboration with the UN’s Vienna Office.
and discussed at several conferences at which chief justices and other senior judges were present.

On the initiative of the American Bar Association’s CEELI offices, the Bangalore Draft was translated into the national languages of Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo, Romania, Serbia and Slovakia, and then reviewed by judges, judges’ associations and constitutional and supreme courts of these countries. A significant contribution towards its evolving form was made by the Consultative Council of European Judges. That body, which functioned within the Council of Europe and represented at that time the judicial systems of 30 European countries, commissioned an expert study of the Bangalore Draft. Thereafter, at a meeting to which the Coordinator of the Group and the UN Special Rapporteur on the Independence of Judges and Lawyers were invited, it conducted a full and frank discussion from the perspective of the civil law system, and then adopted a comprehensive report on specific provisions of the draft.

In the light of the comments and criticisms received – and in order to ensure that the final document faithfully reflected the position of civil law jurisdictions - the Bangalore Draft was revised and placed before a Round-Table Meeting of Chief Justices drawn principally from the civil law system, which was held at the Peace Palace at The Hague. Several judges of the International Court of Justice also participated at this meeting. The final draft that emerged from this meeting – the Bangalore Principles of Judicial Conduct – was translated into Russian, Chinese, French, Spanish and Arabic and annexed to the report presented to the 59th Session of the Commission on Human Rights in April 2003 by the UN Special Rapporteur on the Independence of Judges and Lawyers. The Commission, by a resolution adopted without dissent, noted the Bangalore Principles of Judicial Conduct and brought those Principles “to the attention of Member States, the relevant United Nations organs and intergovernmental and non-governmental organizations for their consideration”.

In July 2006, the Economic and Social Council of the United Nations (ECOSOC) adopted a resolution recommended to it by the UN Commission on Crime Prevention and Criminal Justice in which it recognized the Bangalore Principles of Judicial Conduct as representing a further development of, and as being complementary to, the UN Basic Principles on the Independence of the Judiciary 1985. Accordingly, ECOSOC invited Member States to encourage their judiciaries to take into consideration the Bangalore Principles when reviewing or developing rules with respect to the professional and ethical conduct of members of the judiciary. ECOSOC

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4 Participating in this meeting which was chaired by Judge Weeramantry were Judge Vladimir de Freitas of the Federal Court of Appeal of Brazil, Chief Justice Iva Brozova of the Czech Republic, Chief Justice Mohammad Fathy Naguib of Egypt (assisted by Justice Dr Adel Omar Sherif of the Supreme Constitutional Court of Egypt), Conseillere Christine Chanet of the Cour de Cassation of France, President Genaro David Gongora Pimentel of the Suprema Corte de Justicia de la Nacion of Mexico, President Mario Mangaze of the Supreme Court of Mozambique, President Pim Haak of the Hoge Raad der Nederlanden, Justice Trond Dolva of the Supreme Court of Norway, and Chief Justice Hilario Davide of the Philippines (assisted by Justice Reynato S. Puno).

5 Commission on Human Rights resolution 2003/43.
also invited Member States to submit to the UN Secretary-General their views regarding the *Bangalore Principles* and to suggest revisions, as appropriate.⁶

Fourteen Member States submitted their views concerning the *Bangalore Principles of Judicial Conduct*. In March 2007, in his report to ECOSOC, the UN Secretary General noted as follows:

All of the responding States welcomed the *Bangalore Principles* as a useful basis for the development of domestic standards and rules governing the professional conduct of judges. Many States regarded the guidance contained in the Principles as a valuable tool for strengthening the independence, impartiality, integrity, propriety, competence and diligence of judges, as well as to ensure equality of treatment for all before the courts. Ten of the responding States informed the UN Secretary-General that their judiciaries had already adopted standards and rules that complied with the values and guidelines enshrined in the *Bangalore Principles*, while four reported that they were in the process of reviewing existing professional standards and rules of judicial conduct in the light of the *Bangalore Principles*.⁷

As mandated by ECOSOC, the comments submitted by Member States were placed before an Open-ended Intergovernmental Group of Experts convened by the United Nations Office on Drugs and Crime (UNODC) in Vienna in February 2007. The Secretary-General’s report added that, having considered the proposed amendments, the participants were of the view that, since the text of the Principles had only recently been endorsed by ECOSOC, it was premature to consider amending it. In addition, as most of the comments were aimed at clarifying and developing the values and guidelines already contained in the Principles rather than raising new points, it was felt that it would be more appropriate to insert these comments in the commentary rather than in the text of the Principles itself.⁸

In July 2007, ECOSOC adopted a further resolution recommended to it by the UN Commission on Crime Prevention and Criminal Justice in which it noted with appreciation the report of the Secretary-General on strengthening basic principles of judicial conduct, in particular the progress reported by several Member States on the implementation of the *Bangalore Principles of Judicial Conduct*, and invited Member States, consistent with their domestic legal systems, to continue to encourage their judiciaries to take into consideration the *Bangalore Principles of Judicial Conduct* when reviewing or developing rules with respect to the professional and ethical conduct of members of the judiciary.⁹

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⁶ ECOSOC resolution 2006/23: Strengthening basic principles of judicial conduct.

⁷ Strengthening basic principles of judicial conduct, Report of the Secretary-General, 13 March 2007, UN document E/CN.15/2007/1, paragraph 5.

⁸ Strengthening basic principles of judicial conduct, Report of the Secretary-General, 13 March 2007, UN document E/CN.15/2007/1, paragraph 10.

⁹ ECOSOC Resolution 2007/22.
4. **Impact of the Bangalore Principles**

*United Nations*

The endorsement of the *Bangalore Principles* by three principal agencies of the United Nations – the Commission on Human Rights, the Commission on Crime Prevention and Criminal Justice, and the Economic and Social Commission - have been referred to above.

In April 2004, in his report to the 60th session of the Commission on Human Rights, the new UN Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy, noted that:

The Commission has frequently expressed concern over the frequency and the extent of the phenomenon of corruption within the judiciary throughout the world, which goes far beyond economic corruption in the form of embezzlement of funds allocated to the judiciary by Parliament or bribes (a practice that may in fact be encouraged by the low salaries of judges). It may also concern administration within the judiciary (lack of transparency, system of bribes) or take the form of biased participation in trials and judgments as a result of the politicisation of the judiciary, the party loyalties of judges or all types of judicial patronage. This is particularly serious in that judges and judicial officials are supposed to be a moral authority and a reliable and impartial institution to which all of society can turn when its rights are violated.

Looking beyond the acts themselves, the fact that the public in some countries tends to view the judiciary as a corrupt authority is particularly serious: a lack of trust in justice is lethal for democracy and development and encourages the perpetuation of corruption. Here, the rules of judicial ethics take on major importance. As the case law of the European Court of Human Rights stresses, judges must not only meet objective criteria of impartiality but must also be seen to be impartial; what is at stake is the trust that the courts must inspire in those who are brought before them in a democratic society. Thus one can see why it is so important to disseminate and implement the *Bangalore Principles of Judicial Conduct*, whose authors have taken care to base themselves on the two main legal traditions (customary law and civil law) and which the commission noted at its fifty-ninth session.

He recommended that the *Bangalore Principles* be made available, preferably in national languages, in all law faculties and professional associations of judges and lawyers.

In his 2006 report presented to the Human Rights Council and the United Nations General Assembly, the UN Special Rapporteur on the Independence of Judges and Lawyers, stated thus:¹⁰

Corruption of the judiciary is one of the most pernicious threats to the rule of law and one of the most difficult to eradicate. There are many contributing factors. High levels of corruption and judicial apathy are often attributed to the poor remuneration of judges and lawyers and the judiciary’s lack of financial independence; however, the Special Rapporteur would stress the significance of other factors such as judges’ ideological or political allegiances. The Special Rapporteur’s experience shows that such factors have a decisive impact on judges’ ability to act in an effective, independent and impartial manner, in

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accordance with their professional ethics, particularly when several contributing factors coincide with a weak institutional framework and a culture of corruption. These situations often arise in countries where the principles of judicial independence and international fair trial standards are not well established. The Special Rapporteur has therefore strongly urged States to adopt and subscribe to the *Bangalore Principles of Judicial Conduct*.

In his 2008 and 2009 reports to the Human Rights Council, the UN Special Rapporteur on the Independence of Judges and Lawyers cited extensively from the *Bangalore Principles*. In her 2010 report, the new Special Rapporteur, Gabriela Carina Knaul de Albuquerque e Silva, referred to corruption and added thus:

> Corruption can be political, economic or corporate, but in all its forms, it undermines democratic values and institutions and the enjoyment of human rights. Judicial integrity is a key element of impartial justice. Judges, prosecutors and lawyers should be trained in the need to combat corruption and in the international norms and declarations. In this aspect, particular attention should be given to the *Bangalore Principles of Judicial Conduct*.

During her presentation to the 64th session of the General Assembly, she stressed the need to encourage and stimulate periodic regional meetings with all actors in the judicial system. He added:

> The examples of the *Bangalore Principles of Judicial Conduct* and the Harare Declaration by senior judges prove the importance of such meetings.

The Special Rapporteur stated that these meetings could involve training on international human rights principles and norms and, in addition, provide an opportunity for the exchange of information and ideas as to how their implementation can best be achieved in national judicial systems.

The UNODC, in a background paper prepared for the 11th United Nations Congress on Crime Prevention and Criminal Justice, highlighted the issue of judicial integrity as a key prerequisite for the rule of law, economic growth and the eradication of poverty and, in that context, brought to the attention of delegates the work of the Group and the *Bangalore Principles of Judicial Conduct*. Meanwhile, UNODC has since 2003 provided support to several countries in strengthening judicial integrity, using the *Bangalore Principles* as guidance. As part of these efforts, the *Bangalore Principles* have been translated into several national languages including Indonesian Bahasa and Farsi.

The relevance of the *Bangalore Principles of Judicial Conduct* in strengthening judicial integrity is now underscored in the United Nations Convention Against Corruption. Article 11(1) of that Convention provides that:

> Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity

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and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.  

Use by other international bodies and organizations

In July 2003, judges from international courts and tribunals who met at a workshop in Austria to develop ethics guidelines for international courts, under the auspices of the International Center for Ethics, Justice and Public Life at the second annual Brandeis Institute for International Judges, used the Bangalore Principles as a basic document for their discussions. It is described in the report as “a set of principles developed over several years by the Judicial Integrity Group, a multi-national committee of high court judges, with additional input from judges of the International Court of Justice”.

In October 2004, Senior Officials of Commonwealth Law Ministries meeting in Marlborough House, London, agreed to recommend that Law Ministers should mandate the Commonwealth Secretariat to establish “a judicial code of conduct in member countries which could be based on the values set out in the Bangalore Principles of Judicial Conduct to be placed before Law Ministers with a view to their being commended to judiciaries in the process of establishing such a code; and developing training for and a code of conduct for court administrative staff”.

The European Commission and the Council of Europe introduced the Bangalore Principles of Judicial Conduct (through a paper presented by the Coordinator of the Group) to the State Duma of the Federal Assembly of the Russian Federation at an expert meeting on “The international experience and standards in the sphere of prevention and combating corruption within the judiciary”, held in Moscow in October 2005. Similarly, the Organization for Security and Co-operation in Europe, recommended the Bangalore Principles for adoption by the judiciary of Armenia at a workshop held in Yerevan in November 2005. The Office of the United Nations High Commissioner for Human Rights has also made several references to the Bangalore Principles in the course of its activities.

The UN Committee on the Elimination of Racial Discrimination, in requiring States parties to “strive firmly to ensure a lack of any racial or xenophobic prejudice on the part of judges, jury members and other judicial personnel”, and to “prevent all direct influence by pressure groups, ideologies, religions and churches on the functioning of the system of justice and on the decisions of judges, which may have a discriminatory effect on certain groups”, requested States parties to “take into account the Bangalore Principles of Judicial Conduct, and cited several relevant provisions from it.  

13 ECOSOC Resolution 2007/22 requested the Secretariat “to submit the Bangalore Principles of Judicial Conduct and the Commentary on the Bangalore Principles to the Conference of the States Parties to the United Nations Convention against Corruption at its second session”.

In March 2010, the General Assembly of the International Association of Youth and Family Judges and Magistrates unanimously adopted Principles of Judicial Ethics for Youth and Family Judges and Magistrates that was based substantially on the Bangalore Principles of Judicial Conduct. Its Preamble reads as follows:

WHEREAS the Bangalore Principles of Judicial Conduct have a universal aim and were conceived, adopted and supported in a manner which conferred upon them a unique international legitimacy.

WHEREAS these Bangalore Principles are aimed at judges and magistrates as a whole, including those who work in the area of child or youth and family matters.

WHEREAS judicial practice in youth and family matters entails its own characteristic dimensions and emphases, as appears, amongst others, from the Convention on the Rights of the Child.

WHEREAS there is reason to reaffirm the values expressed the Bangalore Principles by placing them in the particular context of the exercise of the judicial functions in child or youth and family matters.

An explanatory note to the Preamble states as follows:

The Preamble refers to the Bangalore Principles of Judicial Conduct. These principles were adopted in their current form in 2002, following extensive consultations. They have received international endorsement or recognition from such bodies as the UN Social and Economic Council, the UN Office on Drugs and Crime, the International Commission of Jurists and the American Bar Association. They have a legitimacy that is unique. They are aimed at judges and magistrates of all jurisdictions, including those who deal with youth and family matters. They cover much of the ground that had to be covered. Referring to them in the Preamble involves an acknowledgement of their relevance for youth and family judges and magistrates.

Yet, youth and family judges and magistrates work in a fairly specialized environment, which has its specificities. Consequently, specific principles of ethics may be desirable. Adding such complementary elements may serve several purposes. Values that underpin the Bangalore Principles may be reaffirmed in a way that places more emphasis on dimensions that are particularly relevant to youth and family matters. It may bring about a stronger allegiance to the principles among youth and family judges and magistrates. It may also foster a better understanding of the role and work of those who sit in youth and family jurisdictions, thus helping to promote the understanding of judicial ethics for such specialized jurisdictions with third parties (such as States, persons who are in contact with youth and family courts and the public in general). If such complementary principles are adopted, it may be important to ensure that they include a reference to all of the essential values of the Bangalore Principles, even if this may involve occasional repetitions: many judges and magistrates may not be familiar with the Bangalore Principles and are likely to find it helpful to have a document that essentially stands on its own, despite its reference to the Bangalore Principles.

Consequently, complementary principles should aim primarily at reaffirming values or principles that may be already present in the Bangalore Principles but that may have the advantage of being rephrased so as to be closer to the specific role of youth and family jurisdictions. As a secondary consideration, one may also find it appropriate to refer to some of the values underpinning the Bangalore Principles, even in terms that are not specific to youth and family matters, if the presence of such references is deemed important to provide a minimal degree of autonomy to the proposed body of principles.
Courts and other Judicial Tribunals

Reference to the *Bangalore Principles* has been made in judgments of several superior courts and other tribunals. For example, in 2009, in advising the removal from office of the Chief Justice of Gibraltar for inability to discharge the functions of his office, the Judicial Committee of the Privy Council observed that the *Bangalore Principles* (and the Guide to Judicial Conduct published by the Judges’ Council of England and Wales in 2004) “provided guidance as to the standard of conduct to be expected of a judge”. The provisions relating to “Impartiality” and “Propriety” were cited as being of particular relevance.

The Human Rights Committee established under the International Covenant on Civil and Political Rights held that a trial of a civilian by a Military Court constituted a violation of Article 14 of the Covenant. In a concurring opinion reaffirming that military tribunals should not in principle have jurisdiction to try civilians, Ms Christine Chanet and five other Members explained that:

Military functions fall within the framework of a hierarchical organization and are subject to rules of discipline that are difficult to reconcile with the independence of judges called for under Article 14 of the Covenant and reaffirmed in the *Bangalore Principles* on the independence of the judiciary.

Use at the national level

On 31 March 2003, the Judiciary of Belize adopted a Code of Judicial Conduct and Etiquette that was a mirror image of the original Bangalore Draft Code of Judicial Conduct. On 27 April 2004, the Supreme Court of the Philippines promulgated (and published in newspapers of general circulation) the New Code of Judicial Conduct for the Philippine Judiciary, which, as its preamble stated, was based on the *Bangalore Principles of Judicial Conduct*. It superseded the earlier Canons of Judicial Ethics and the Code of Judicial Conduct.

According to available information, the *Bangalore Principles* have since been used, or are being used, as the basis or as a guide for developing their own national codes of judicial conduct or to revise existing codes, by the judiciaries of several countries on all the continents. Among the more recent documents is the *Statement of Principles of Judicial Ethics for the Scottish Judiciary 2010*. Its Introduction states, inter alia:

While the Scottish Judiciary have an honourable tradition of the attainment of high standards of judicial conduct, that has been achieved without the benefit of written guidance. However, in recent years, written guidance has been developed in many other jurisdictions. Furthermore, a recognition of the need for such guidance in relation to judicial conduct has emerged in the international context with the development of the *Bangalore Principles of Judicial Conduct*, endorsed at the 59th session of the United Nations Human Rights Commission at Geneva in April 2003. Against this background, it is considered that it is now appropriate for such guidance to be available in Scotland. To that end this document has been devised, after consideration, by the Judicial Council for Scotland. It is intended that, from time to time, it should be reviewed in the light of experience and changing circumstances.
In the development of this document, importance has been attached to the components of the *Bangalore Principles* themselves and therefore acknowledgement is due to those responsible for their formulation.

**Use by non-governmental organizations**

In February 2004, in a letter addressed to then US Chief Justice Rehnquist, the Secretary-General of the International Commission of Jurists questioned the impartiality of a Judge of the Supreme Court in an appeal before the Supreme Court filed by the Vice-President. The secretary-general drew attention to the *Bangalore Principles* and quoted extensively its elaboration of the concept of impartiality (the letter may be accessed at [www.icj.org](http://www.icj.org)).

The American Bar Association uses the *Bangalore Principles of Judicial Conduct* as the authoritative text in its programmes that seek to improve awareness and understanding of judicial ethics in Central Europe, Eurasia and Africa. The *Bangalore Principles* are also being used in assisting judges associations to conclude statements of judicial ethics. Such programmes have been, or are being, conducted in several countries including Bulgaria, Indonesia, Mongolia, Thailand and Malaysia. ABA-Asia has also prepared a paper on the relationship of the *Bangalore Principles* to the implementation responsibilities of signatories to the United Nations Convention Against Corruption (UNCAC) and the efficacy of those principles in promoting an independent judiciary. The ABA 2005 report on international rule of law initiatives contains the following paragraph:

> One important lesson of the ABA’s work on judicial ethics has been the recognition of a need for greater reliance on international standards in assisting the developing nations with creating judicial conduct codes, as opposed to principles of conduct borrowed from the national legal systems of other countries. In this respect, the *Bangalore Principles of Judicial Conduct*, which were drafted by the Judicial Group on Strengthening Judicial Integrity and endorsed by the UN Commission on Human Rights, have proved a valuable resource. The Principles played a prominent role in the development of the Jordanian Code of Judicial Conduct and the Serbian Standards of Judicial Ethics, but it was the Philippines that became one of the first countries to adopt a judicial ethics code that is virtually identical to the *Bangalore Principles*. The Philippines adopted this new ethics code as part of a larger reform effort in recognition of the value of applying internationally recognized ethical standards, and in appreciation of the fact that the Bangalore Principles was one of the few judicial ethical models written by judges for judges. Following the adoption of the Philippine Code, a number of challenges in its implementation became obvious, and ABA-Asia undertook the task of promoting the judiciary’s participation in addressing these challenges.

5. **Commentary on the Bangalore Principles of Judicial Conduct**

At its 4th meeting in Vienna, Austria, in October 2005, the Group agreed to prepare a Commentary on the Bangalore Principles of Judicial Conduct, designed to enable judges and teachers of judicial ethics to understand not only the drafting and cross-
cultural consultation process of the *Bangalore Principles* and the rationale for the values and principles incorporated in it, but to also facilitate a wider understanding of the applicability of those values and principles to issues, situations and problems that may arise or emerge. In 2006, ECOSOC, by resolution 2006/23, requested UNODC to convene an open-ended intergovernmental expert group, in cooperation with the Judicial Group on Strengthening Judicial Integrity and other international and regional judicial forums, “to develop a *Commentary on the Bangalore Principles of Judicial Conduct*, taking into account the views expressed and the revisions suggested by Member States.”

A draft Commentary prepared by the Coordinator was submitted in March 2007 to a joint meeting of the Group and of an Open-ended Intergovernmental Group of Experts convened by UNODC in terms of ECOSOC resolution 2006/23, and was examined paragraph by paragraph and approved subject to certain amendments. In July 2007, ECOSOC unanimously adopted a resolution recommended to it by the UN Commission on Crime Prevention and Criminal Justice in which it commended the work of the Group and requested UNODC to translate the Commentary “into all official languages of the United Nations and to disseminate it to Member States, international and regional judicial forums and appropriate organizations.”

In September 2007, UNODC published the Commentary – a 175-page document – in English. In 2009, the Judicial Training Institute of Kenya re-published the Commentary in its Bulletin and made copies available to every judge and magistrate in the country. In 2011, the Azerbaijan Law Reform Centre translated and published the Commentary, together with the Implementation Measures, in Azerbaijani.


The need for measures for the effective implementation of the *Bangalore Principles of Judicial Conduct* was emphasized at several legal and judicial conferences. Indeed, it was pointed out that without such procedures, the *Bangalore Principles* would remain mere aspirations and public expectations would remain unfulfilled. Accordingly, at its 5th Meeting in Vienna in February 2007, the Group agreed to undertake the preparation of a statement of measures for the effective implementation of the *Bangalore Principles of Judicial Conduct*, and requested the Co-ordinator of the Group to prepare a comprehensive draft statement for discussion.

At its 6th Meeting in Lusaka, Republic of Zambia, in January 2010, the Group examined in detail the Report and Draft Measures for the Effective Implementation of the Bangalore Principles prepared by the Co-ordinator. While maintaining the structure (i.e. responsibilities of the Judiciary and responsibilities of the State), the draft measures were reviewed, revised and adopted.

15 ECOSOC Resolution 2007/22.
The Measures for the Effective Implementation of the Bangalore Principles ("Implementation Measures") are offered by the Group as guidelines or benchmarks to further the implementation of the Bangalore Principles at the domestic level. In preparing the Implementation Measures, reference was made to several national constitutions and to regional and international initiatives to ensure that they reflected a broad national and international consensus. The Implementation Measures are in two parts. Part One describes the measures that are required to be adopted by the Judiciary. Part Two describes the institutional arrangements that are required to ensure judicial independence and which are exclusively within the competence of the State.

7. Survey Instruments

The Group agreed at its 1st meeting that research should be undertaken to create a survey instrument for the collection of data relating to judicial corruption in order that specific problem areas may be identified and the effectiveness of subsequent reforms tracked. While not denying the validity of public perception surveys, the Chief Justices felt that the experience of actual court-users and other stakeholders would be more useful in identifying systemic weaknesses in the judicial process and enabling these to be remedied. At its 2nd meeting, the draft survey instruments were examined and approved, and the Chief Justices of Uganda, Nigeria and Sri Lanka agreed to undertake pilot programmes in their respective jurisdictions. After the conclusion of the three national surveys, the survey instruments were evaluated by CEAT and its report obtained.

The reports of these pilot programmes have been published. The Group noted that the principal systemic weaknesses identified in the surveys of court users and other stakeholders conducted in the pilot programmes were:

(a) Lack of adequate training for judges;
(b) Delay and lethargy in the judicial system;
(c) Length of court proceedings;
(d) Lack of skill in the English language amongst some judges;
(e) The disappearance of court records;
(f) Prejudice;
(g) Inappropriate socialising of judges and lawyers;
(h) Variations in sentencing;
(i) Delay in delivering judgments;
(j) Expensive private legal services; and
(k) Unofficial payments required to be made for various administrative activities inherent in the judicial process.

The Group’s determinations in this regard are attached as Annex A.

8. **Principles of Conduct for Judicial Personnel**

At its 3rd Meeting in Colombo in 2003 the Group reviewed and revised a draft prepared by the Coordinator, and at its 4th Meeting in Vienna in 2005 formally adopted, the *Principles of Conduct for Court Personnel*. A consultation process with selected court registrars preceded their final adoption. The need for such principles of conduct was underscored in the national surveys of court-users and stakeholders conducted in Uganda, Sri Lanka and Nigeria as well as in previous public perception surveys conducted elsewhere. In 2004, the Supreme Court of the Philippines promulgated a Code of Conduct for Judicial Employees based on the original draft as amended in Colombo.

9. **Evaluation of Judicial Performance**

On the request of Chief Justice Odoki of Uganda, the Group, at its 4th Meeting in Vienna in 2005, focused on the evaluation of judicial performance. A paper by a European expert facilitated a discussion that covered both common law and civil law systems. The Group agreed to consider whether any checklist to measure judicial performance could be recommended so as to reflect objective considerations whilst at the same time respecting the immeasurable values which the judiciary defends.

10. **Manual on the Judicial Reform Process**

At its 3rd Meeting in Colombo in 2003, the Group agreed that action be taken to capture and exchange emerging best practices on judicial reform, including case management, sentencing guidelines, and computerization of case records, and that such material be included in a manual which would be made available through a website to be established for the Group. UNODC has since prepared this document entitled “Technical Guide on Strengthening Judicial Integrity and Capacity”.

11. **The removal of judges in situations of systemic corruption**

The Group invited Chief Justice Gicheru of Kenya to its 4th Meeting in Vienna in 2005 to share with the Group his experience in disciplining judges. The initiatives taken by him and his predecessor to combat widespread corruption in the Kenyan judiciary since 1998 had been criticized by human rights organizations for the apparent lack of due process. A crisis had arisen because of the number of judges alleged to be involved. Chief Justice Gicheru, who claimed that his court had found itself with “the best judges that money can buy”, explained the steps that had been taken to conduct ex parte preliminary investigations and thereafter to apply constitutional provisions.
Against the background of the Kenyan experience, the Group drew on the experience of its members in considering the procedures that would be appropriate for investigating complaints of corruption against judges and also complaints that judges had breached principles of judicial conduct. To facilitate further discussion of this subject, the Group agreed to examine existing mechanisms both for disciplining judges and for the enforcement of national codes of conduct, identifying the principles underlying these mechanisms.

12. **Current membership**

In terms of its draft Memorandum of Understanding, the Group consists of such number of members as the Group determines from time to time but not exceeding fifteen. The Group, by consensus, determines to admit new members, bearing in mind the importance of ensuring, so far as is practicable, either an equitable geographical distribution or the representation of the major legal systems of the world. Members join the Group on the understanding that they will resign should they become personally involved in a controversy that has the potential adversely to affect the work of the Group.

The Group as at present constituted comprises:

- H.E. Judge Christopher Weeramantry, former Vice-President of the International Court of Justice (chairperson),
- The Hon. Michael Kirby, former Justice of the High Court of Australia (rapporteur),
- The Hon. M.L. Uwais, former Chief Justice of Nigeria
- The Hon. Pius Langa, Chief Justice of South Africa
- The Hon. B.J. Odoki, Chief Justice of Uganda
- The Hon. P.N. Bhagwati, former Chief Justice of India
- The Hon. B.A. Samatta, former Chief Justice of Tanzania
- The Hon. Dr Adel Omar Sherif, Deputy Chief Justice of Egypt
- The Rt. Hon. The Lord Mance, Justice of the Supreme Court of the United Kingdom.
- The Hon. Christine Chanet, Justice of the Court of Cassation of France
- The Hon. Prof. Dr Rudolf Mellinghoff, President of the Federal Supreme Court of Finance of Germany.

In addition to its present members, the following have also served as members: Chief Justice F. L. Nyalali (Tanzania), Chief Justice Mustapha Kamal (Bangladesh), Chief Justice Sarath N Silva (Sri Lanka), Chief Justice Y. Bhaskar Rao (Karnataka State, India), Chief Justice Latifur Rahman (Bangladesh), Chief Justice Mainur Reza Chaudhury (Bangladesh), Chief Justice P. V. Reddi (Karnataka State, India), Chief Justice K. N. Upadhyay (Nepal), Chief Justice N. K. Jain (Karnataka State, India), Chief Justice K. M. Hassan (Bangladesh), and Chief Justice Hilario G. Davide Jr (The Philippines).
The UN Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Cumaraswamy, has been in attendance as an Observer.\textsuperscript{17}

The management and day-to-day operations of the Group, including the implementation of the decisions of the Group, the organization of its meetings, and the preparation or commissioning of research papers when necessary, is the responsibility of the Coordinator, Dr Nihal Jayawickrama. He previously served as Attorney-General and Permanent Secretary to the Ministry of Justice of Sri Lanka, Ariel F. Sallows Professor of Human Rights at the University of Saskatchewan, Canada, Associate Professor of Law at the University of Hong Kong, and Executive Director of Transparency International, Berlin. He is also the author of \textit{The Judicial Application of Human Rights Law: National, Regional and International Jurisprudence} (Cambridge University Press, 1094 pp, 2002). He was assisted for several years by Mr Jeremy Pope, former Director of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat, London and Managing Director of Transparency International, Berlin.

\section*{13. Funding}

The Group, by consensus, agrees to seek and receive funding for the purpose of realising its objectives, including the management of the Group’s activities and the organization of its meetings, from any institution, organization, foundation, government or individual the Group deems appropriate. Such funds are usually received and administered, on behalf of the Group, by a designated institution or organization.

The 1\textsuperscript{st} meeting of the Group in 2000 was funded by UNICICP (now UNODC), Vienna. Thereafter, the Department for International Development (DfID), United Kingdom, funded the research and drafting, the dissemination and consultation process, and the finalization and translation of the Bangalore Principles, including the 2\textsuperscript{nd} meeting of the Group held in Bangalore in 2001 and the meeting of civil law Chief Justices held at The Hague in 2002. DfID also provided funding to develop the survey instruments, to conduct pilot programmes in Uganda and Sri Lanka, for the management of the judicial integrity programme, and generally to sustain the Group between 2000 and 2003.

\textsuperscript{17} On the invitation of the Group, Justice Govind Bahadur Shrestha (representing the Chief Justice of Nepal), Dr Ernst Markel, Justice of the Supreme Court of Austria and Vice-President of the International Association of Judges, Justice Claire L’Heureux Dube of the Supreme Court of Canada, Justice P. Vishwanatha Shetty and Justice G.C. Bharuka of the High Court of Karnataka, A.N. Jayaram, Advocate-General of Karnataka, Justice John A. Mroso (representing the Chief Justice of Tanzania), President Johann Rzeszut of the Supreme Court of Austria, Dr Robert Fremr, Chairman of the Senate of the Criminal Division of the Supreme Court of the Czech Republic, Chief Justice J. E. Gicheru of Kenya, Dra Elena Highton de Nolasco, Vice-President of the Supreme Court of Argentina, Prof. Dr Paulus Effendie Lotulung, Deputy Chief Justice of Indonesia, Justice Ignacio Sancho Gargallo, President of the Commercial Division of the Court of Appeal of Barcelona, Spain, and Chief Justice Ernest L. Sakala, Deputy Chief Justice Mambilima, Justice Mwanambwa, and High Court Judge Musonda of Zambia, have also attended one or more meetings of the Group as Special Guests or Observers.
UNODC Vienna funded the 3rd meeting of the Group held in Colombo in 2003, and the 4th and 5th meetings of the Group held in Vienna in 2005 and 2007 respectively.

Since 2006, the Group has been supported by the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH, Germany, which provided funding to research and prepare the Draft Commentary on the Bangalore Principles of Judicial Conduct and the Draft Statement of Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct. GIZ (formerly GTZ) also funded the 6th meeting of the Group held in Lusaka in 2010.
ANNEX A

DETERMINATIONS BY THE JUDICIAL INTEGRITY GROUP

(a) In many jurisdictions, the quality of legal education was not of an acceptable standard. One could graduate without any knowledge of legal philosophy, international law, international human rights and humanitarian law, or environmental law, and judges who were products of such law schools would be inadequately equipped. Due to lack of training many judges were unaware of what went on in other jurisdictions, and judges of superior courts often felt that they did not require continuing legal education. Accordingly,

(i) It was necessary to institute training programmes for judges on a regular basis, while senior judges should conduct seminars to which junior judges were invited. In this connection, reference was made to the Philippines Judicial Academy, where attendance was mandatory and performance in courses was taken into account in promotions.

(ii) Where the language of legal literature (i.e. law reports, appellate judgments, etc) is different from the language of legal education, it is imperative that instruction in the former should be provided to both lawyers and judges.

(iii) Those responsible for judicial and legal education should be informed of the need for legal instruction in such areas as International Law, including International Human Rights and Humanitarian Law; International Environmental Law; and Legal Philosophy.

(b) Judicial officers must take responsibility for reducing delay in the conduct and conclusion of court proceedings and discourage activities of the legal profession causing undue delay. Judicial officers should institute transparent mechanisms to allow the judiciary, the legal profession and litigants to know the status of court proceedings. (One method suggested was the monthly circulation among judges of a list of pending judgments). Where no legal requirements already exist, standards should be adopted by the judges themselves and publicly announced in order to ensure due diligence in the administration of justice.

(c) Judicial officers must take necessary steps to prevent court records from disappearing or being withheld. Such steps should include the computerisation of court records. They should also institute systems for the investigation of the loss and disappearance of court files. Where wrongdoing is suspected, they should ensure the investigation of the loss of files, which is always to be regarded as a serious default. In the case of lost files, they should institute action to reconstruct the record and institute procedures to avoid such loss.

(d) Where they do not already exist and within any applicable law, the judiciary should introduce means of reducing unjustifiable variations in criminal sentences in like cases including:

(i) By the introduction of sentencing guidelines and like procedures;

(ii) By securing the availability of relevant sentencing statistics and data; and

(iii) By judicial education, including the introduction of a judicial handbook concerning sentencing standards and principles (Reference was made to the Bench Book in the Philippines).

Such initiatives should observe due respect for the proper role of judicial discretion in sentencing and should be transparent so as to be known to the judiciary, the legal profession and to litigants.

(e) Recognising the fundamental importance of access to justice to ensure true equality before the law, the high costs of private legal representation and the typical limits on the availability of public legal aid, Judges should consider, in accordance with any legal provisions that may apply and
with the consent of any unrepresented party but acting in cooperation with the legal profession, various initiatives including:

(i) The encouragement of pro bono representation by the legal profession of selected litigants;

(ii) The appointment of amicus curiae or other representatives to protect interests that would otherwise be unrepresented in proceedings; and

(iii) The provision of permission to appropriate non-qualified persons to represent parties before a court.

Judges should take appropriate opportunities to emphasise the importance of access to justice, given that such access was essential to true respect for constitutionalism and the rule of law.

(f) Having regard to reports of unofficial payments for purposes such as the calling up of files, the issuing of summonses, the service of summonses, securing copy of evidence, the obtaining of bail, the provision of a certified copy of a judgment, expedition of cases, the delay of cases, the fixing of convenient dates and the rediscovery of lost files, Judges should consider:

(i) The display of notices in court buildings and elsewhere where they might be seen by relevant persons, forbidding all such payments.

(ii) The appointment of court vigilance officers and users committees together with appropriate systems of inspection to combat such informal payments;

(iii) The introduction of computerisation of court records including of the court hearing schedule;

(iv) The introduction of fixed time limits to prescribe legal steps that must be taken in the preparation of a case for hearing; and

(v) The prompt and effective response by the court system to public complaints.

To ensure the effectiveness of such measures and the prohibition of informal payments by users of the court system, Judges should, as far as possible, address the issue of the adequacy of the remuneration of court officers.

(g) It was generally agreed that the Bangalore Principles should be made known by the members of the Group to their judicial colleagues and to other judges in participating and non-participating countries through judicial meetings, conferences and suitable publications.